

**DEPARTMENT OF PUBLIC HEALTH
AND HUMAN SERVICES**

CHAPTER 116

DEAD HUMAN BODIES

Subchapter 1

Embalming and Transportation

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Subchapter 1

Embalming and Transportation

37.116.101 DEFINITIONS For the purpose of this chapter, the following definitions apply:

(1) "Alternative container" means any receptacle or enclosure which:

(a) is of sufficient strength to be used to hold and to transport a dead human body;

(b) is able to be closed to provide a complete covering for the human remains;

(c) is resistant to leakage or spillage;

(d) minimizes the exchange of air between the inside and outside of the container; and

(e) is able to provide protection for the health and safety of persons handling the container.

(2) "Common carrier" means a person or organization that offers to the public, transportation of people and/or materials for compensation, including railroads, airlines, or other public transportation.

(3) "Coroner" means a county coroner elected or appointed pursuant to 7-4-2203, MCA.

(4) "Department" means the department of public health and human services.

(5) "Destination" means a cemetery, crematorium, or other place of ultimate disposition of a dead human body.

(6) "Embalming" means the preservation and disinfection of the dead human body by application of chemicals, externally, internally, or both.

(7) "Health care facility" has the meaning provided in 50-16-1003, MCA.

(8) "Health care provider" has the meaning provided in 50-16-1003, MCA, including but not limited to a physician, nurse, or emergency medical technician.

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- (9) "Infectious disease" means any of the following:
- (a) meningococcal meningitis;
 - (b) communicable pulmonary tuberculosis;
 - (c) human immunodeficiency virus (HIV) infection;
 - (d) hepatitis B, C, or D; and
 - (e) any disease attributed to a specific bacterial, parasitic, or other agent recognized by the Control of Communicable Diseases Manual as transmitted person to person by an aerosol or by contact with infectious blood or body fluids. The department hereby adopts and incorporates by reference the Control of Communicable Diseases Manual published by American Public Health Association, 16th edition, 1995, which specifies the modes of transmission for communicable diseases. The portions of the manual that will be used are those identifying the diseases transmittable by the foregoing means. A copy of the manual may be obtained from the American Public Health Association, 1015 15th Street, NW, Washington, DC 20005.
- (10) "Local health officer" means a county, city, city-county, or district health officer appointed by a local board of health or the board of a multijurisdictional service district formed pursuant to Title 7, chapter 11, part 11, MCA, to provide health services.
- (11) "Mortuary" means a facility licensed pursuant to Title 37, chapter 19, MCA.
- (12) "Private conveyer" means any entity other than a common carrier that transports a dead human body, including but not limited to, a mortuary or an ambulance service.
- (13) "Transport" means to carry a dead human body from one location to another. (History: Sec. 50-1-202, 50-16-701 and 50-16-705, MCA; IMP, Sec. 50-1-202, 50-16-701 and 50-16-705, MCA; NEW, 1980 MAR p. 1587, Eff. 6/13/80; AMD, 1987 MAR p. 2147, Eff. 11/28/87; TRANS & AMD, from DHES, 1999 MAR p. 345, Eff. 2/26/99.)

37.116.102 DEATH OF A PERSON WITH AN INFECTIOUS DISEASE AND NOTIFICATION OF MORTUARY (1) When a person dies, the person's health care provider, the local coroner who certifies the death, or, if the death occurs in a health care facility, a facility staff member designated by the facility must notify the mortuary receiving the person's body, at the time of transfer of the body to the mortuary or as soon after transfer as possible, whether or not the person had or was suspected of having an infectious disease at the time of death. If the person did have or was suspected of having an infectious disease, the notice must also include what infectious disease the deceased individual had at the time of death and the nature of the disease. A sample form is available from the department's communicable disease control and prevention bureau, which may be used to provide the notice in writing to a mortuary.

(2) If a person has or is suspected by the person's health care provider or the coroner of having an infectious disease at the time of death, the local health officer, immediately after receiving notification of the infectious disease, must inform the mortician or any other person handling the body (before or after death) of that fact and of the appropriate measures which should be taken to prevent transmission.

(3) As soon as reasonably possible following death or the conclusion of further examination required to determine the cause of death, the body of a person who had or is suspected by the person's health care provider, the coroner, or the local health officer of having a viral hemorrhagic fever (lassa, ebola, Marburg, Congo-Crimean) or any other undiagnosable febrile disease occurring shortly after returning from international travel must be placed in a hermetically sealed bag or alternative container, handled only to the extent necessary, and either cremated subject to the restriction in 37-19-705(2), MCA, or buried immediately, unless an exception is granted pursuant to ARM 37.116.105

(4) Whether or not the mortuary receives notice that a deceased person had an infectious disease, blood and body fluid precautions as defined in ARM 37.114.101 must be taken by the mortuary staff in order to prevent transmission of any potential infectious disease to mortuary personnel.

(5) The definitions in ARM 37.114.101 apply to this chapter. A copy of ARM 37.114.101 may be obtained from the Department of Public Health and Human Services, Health Policy and Services Division, Communicable Disease Control and Prevention Bureau, Cogswell Building, P.O. Box 202951, Helena, MT 59620-2951. (History: Sec. 50-1-202, 50-16-701 and 50-16-705, MCA; IMP, Sec. 50-1-202, 50-16-705 and 50-16-712, MCA; NEW, 1980 MAR p. 1587, Eff. 6/13/80; AMD, 1987 MAR p. 2147, Eff. 11/28/87; TRANS & AMD, from DHES, 1999 MAR p. 345, Eff. 2/26/99.)

37. 116. 103 TRANSPORTATION OF DEAD HUMAN BODIES (1) The body of a person who died or is suspected by the person's health care provider, the coroner, or the local health officer of dying with a disease listed in ARM 37. 116. 102(3) may not be transported unless enclosed in a hermetically sealed casket or alternative container and the plans for transporting the container are approved by the local health officer.

(2) The body of a person who, at the time of death, did not have a disease listed in ARM 37. 116. 102(3):

(a) when removed from the place of death to a mortuary, must be transported by removal cot, transport stretcher or alternative container;

(b) must be placed in a casket or alternative container in order to be transported by common carrier. If such body is en route more than eight hours, or if the termination of common carrier transport occurs more than 36 hours after the time of death, the body must be either embalmed or refrigerated at 35°F or colder, so as to prevent or substantially retard decomposition and the resultant effluents and odors;

(c) when being transported by a private conveyer and the body will not reach its destination within 48 hours after the time of death, must be either embalmed or refrigerated at 35°F or colder, so as to prevent or substantially retard decomposition and the resultant effluents and odors. (History: Sec. 50-1-202, MCA; IMP, Sec. 50-1-202, MCA; NEW, 1980 MAR p. 1587, Eff. 6/13/80; AMD, 1995 MAR p. 850, Eff. 5/12/95; TRANS & AMD, from DHES, 1999 MAR p. 345, Eff. 2/26/99.)

37.116.104 PROHIBITIONS (1) A disinterred human body of a person who died with a disease listed in ARM 37.116.102(3) may not be accepted for transportation by a common carrier or private conveyer unless the remains are enclosed in an alternative container approved by the local health officer or the department's director or designee. (History: Sec. 50-1-202, MCA; IMP, Sec. 50-1-202, MCA; NEW, 1980 MAR p. 1587, Eff. 6/13/80; TRANS & AMD, from DHES, 1999 MAR p. 345, Eff. 2/26/99.)

37.116.105 EXCEPTIONS (1) The department or a local health officer may grant an exception to the provisions of:

(a) ARM 37.116.103(2) or 37.116.104(1) if such exception is requested prior to transportation of the dead human body and if such exception does not constitute a hazard to public health, create a public nuisance, or violate the provisions of Title 50, chapter 15, part 4, MCA;

(b) the requirement of ARM 37.116.102(3) for immediate cremation or burial if special circumstances exist that ensure protection against exposure to the disease in question. (History: Sec. 50-1-202, MCA; IMP, Sec. 50-1-202, MCA; NEW, 1980 MAR p. 1587, Eff. 6/13/80; TRANS & AMD, from DHES, 1999 MAR p. 345, Eff. 2/26/99.)